



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

February 11, 2014

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To: Supervisor Don Knabe, Chairman
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From: William T Fujioka
Chief Executive Officer

WASHINGTON, D.C. UPDATE - PURSUIT OF COUNTY POSITION ON THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

This memorandum contains a pursuit of County position to oppose the reprogramming or rescission of Federal Fiscal Year (FFY) 2014 State Criminal Alien Assistance Program (SCAAP) funds, and to support increased SCAAP appropriations and the transfer of SCAAP from the Department of Justice (DOJ) to the Department of Homeland Security.

Background

The County successfully advocated for language in the 1994 Crime Act that authorizes the Attorney General to take custody of undocumented criminal alien inmates from state and local governments or reimburse their cost of incarcerating them through SCAAP. Under the Homeland Security Act of 2002, most immigration functions, including the identification and removal of deportable criminal aliens, were transferred from DOJ to the newly created Department of Homeland Security (DHS), but the administration of SCAAP remained in DOJ.

Since DHS was created in 2002, the County's SCAAP reimbursement dropped from an all-time high of \$34.0 million in FFY 2002 to only \$5.7 million in FFY 2013. While DHS' budget for immigration enforcement (including immigration-related detention) has risen sharply, annual SCAAP appropriations fell from \$565 million in FFY 2002 to \$238 million in FFY 2013 and \$180 million in FFY 2014. Moreover, DOJ used its administrative authority to further reduce SCAAP funding by reprogramming \$24 million (10%) of total SCAAP appropriations to other activities in FFYs 2012 and 2013.

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The FFY 2014 Omnibus Appropriations Act authorizes DOJ to reprogram up to 10% of total appropriations for any state and local law enforcement activity (including SCAAP) to other activities, and also directs DOJ to rescind \$59 million in unobligated state and local law enforcement funding by no later than September 30, 2014. Because SCAAP is a low funding priority for DOJ, there is a major risk that DOJ will reprogram 10% of FFY 2014 SCAAP appropriations and also rescind a portion of the remaining SCAAP appropriations.

Prospects for increasing SCAAP appropriations would improve if SCAAP were transferred from DOJ's Bureau of Justice Assistance (BJA) to DHS' Bureau of Immigration and Customs Enforcement (ICE). Overall funding for DHS, especially for ICE, has been growing significantly faster than for DOJ. Most notably, the annual ICE detention budget grew from \$1.65 billion in FFY 2008 to nearly \$2.79 billion in FFY 2014 while SCAAP funding fell from \$400 million to \$180 million during the same time period. When SCAAP reimbursement was authorized in 1994, DOJ was responsible for identifying, detaining, and deporting criminal aliens -- responsibilities have since been transferred to DHS. Transferring SCAAP to DHS would be consistent with the County's longstanding position that the Federal government's immigration responsibilities include responsibility for reimbursing state and local costs resulting from its immigration policies. In contrast, DOJ has viewed SCAAP as just one of many discretionary justice assistance grants administered by BJA.

Pursuit of County Position

The County's Federal Agenda includes policies supporting proposals which would reduce the County's criminal justice costs associated with criminal aliens, such as by providing increased Federal reimbursement of County costs or by increasing the identification, apprehension, deportation, or Federal prosecutions of criminal aliens. In addition, numerous Board motions supporting increased SCAAP reimbursement of state and local costs of incarcerating undocumented criminal aliens have been adopted over the years. **Based on these existing policies, and unless otherwise instructed by the Board, the County's Washington, D.C. advocates will oppose the re-programming or rescission of FFY 2014 SCAAP funds, and support increased SCAAP appropriations and the transfer of SCAAP from DOJ to DHS.**

The County's Washington, D.C. advocates would pursue these positions in coordination with the California State Association of Counties, National Association of Counties, and other state and local governments which share the County's concerns about the decreases in SCAAP funding and about how DOJ has been administering SCAAP.

Each Supervisor
February 11, 2014
Page 3

The authorization of appropriations for SCAAP expired at the end of FFY 2011. Legislation to reauthorize SCAAP or to enact comprehensive immigration reform are potential legislative vehicles for transferring SCAAP from DOJ to DHS.

We will continue to keep you advised.

WTF:RA
MR:MT:ma

c: All Department Heads
Legislative Strategist